STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company d/b/a Ameren Illinois Petition for Approval of Tariffs Associated with the Small Volume Transportation Program.	: : : : : : : : :	Docket No. 14-0097

INITIAL BRIEF OF THE STAFF OF THE ILLINOIS COMMERCE COMMISSION

MATTHEW L. HARVEY
KELLY A. TURNER
Office of General Counsel
Illinois Commerce Commission
160 North LaSalle Street, Suite C-800
Chicago, IL 60601
Phone: (312) 793-2877
Fax: (312) 793-1556
mharvey@icc.illinois.gov
kturner@icc.illinois.gov

January 7, 2015

Counsel for the Staff of the
Illinois Commerce Commission

Table of Contents

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Ameren Illinois Company d/b/a Ameren Illinois Petition for Approval of Tariffs Associated with the Small Volume Transportation Program.	: : : : : : : : :	Docket No. 14-0097

INITIAL BRIEF OF THE STAFF
OF THE ILLINOIS COMMERCE COMMISSION

I. Introduction

Staff of the Illinois Commerce Commission ("Staff"), by and through its counsel, pursuant to the direction of the Administrative Law Judges ("ALJ") and Section 200.800 of the Illinois Administrative Code (83 Ill. Adm. Code 200.800), respectfully submits its initial brief in the above-captioned matter.

II. Procedural History

Ameren Illinois Company d/b/a Ameren Illinois (Ameren) initiated this proceeding by filing its petition with attached Small Volume Transportation (SVT) tariffs on January 31, 2014, pursuant to direction of the Commission as more fully set forth *infra*. (*See, generally*, Petition). Thereafter, a number of parties, including the Attorney General of Illinois (AG) the Citizens Utility Board (CUB), the Retail Energy Supply Association

(RESA), the Illinois Competitive Energy Association (ICEA), Interstate Gas Supply of Illinois, Inc. (IGS), filed petitions to intervene or otherwise sought intervention.

The parties prefiled their respective testimony. Thereafter, Ameren filed supplemental testimony which, in summary and not verbatim, alleged that the costs associated with implementation of an SVT program would be considerably greater than those originally estimated, and seeking direction from the Commission as to whether it continued to view such implementation as advisable given the ostensibly changed circumstances, and suggesting that another form of SVT plan might be approved. The parties filed additional testimony regarding this issue whereupon a hearing was convened before a duly-appointed Administrative Law Judge, with testimony taken and proof otherwise adduced. (Tr. 60-406.)

III. Continuation of SVT Program

In its Final Order in Ameren's 2011 rate case, Docket No. 12-0252, the Commission stated:

> The Commission notes that it has long had a policy favoring competition in energy markets, and the Commission believes that customers will generally benefit from being given the opportunity to participate in a well-designed competitive market.
>
> …
>
> The Commission finds the language of Section 19-130 to be pro-competition, noting that Section 19-130 appears to presume that there should be competitive markets in Illinois, with an apparent mandate to the ORMD to identify barriers to the development of those competitive markets and propose solutions to eliminate those barriers.

(Order, 193-194.)

In its Final Order in Docket No. 13-0192, the Commission approved a Small Volume Transportation (SVT) program for Ameren:

> Regulation is, however, an imperfect substitute for competition. Generally speaking, the Commission favors competition over regulation where feasible. In this instance, the Commission believes the record contains a sufficient showing that the potential benefits of an SVT program in AIC's service territory, while not certain, are likely.
>
> …
>
> The Commission concludes that it is in the public interest to approve an SVT program at this time[.]

(Order, 246.)

Further, in the same docket, the Commission ruled:

> AIC shall file tariffs consistent with the findings of this Order. As indicated above, AIC is directed to hold a workshop following the issuance of this Order, focusing on the issues that are not resolved by this Order, and to file a petition, tariffs and testimony in support of the SVT program within 45 days of the date of this Order. The separate proceeding shall be for the purpose of improving and editing the tariffs submitted in the instant proceeding, and to resolve the remaining issues not decided in this Order, to the extent a resolution of them is not reached in the workshop.

(Order, 251.)

In particular, in Docket No. 13-0192, Ameren ultimately calculated that the SVT program would cost $10.6 million. (Ameren Ex. 5.0, 6.) The Commission approved inclusion by Ameren of this amount in its regulated costs. (Ameren Ex. 26, 29; Docket No. 13-0192.)

Ameren filed its petition with tariffs on January 31, 2014. (*See, generally*, Petition.) Through direct and rebuttal testimonies, Ameren, Staff and Intervenors discussed the issues surrounding those tariffs. However, on July 11, 2014 2014, Ameren filed supplemental testimony, stating in summary that the estimated cost to implement its SVT program had increased substantially. (*See* Ameren Ex. 4.0, 10, *et seq.*) Ameren now estimates that the project would cost over $32 million, rather than the $10.6 million originally projected. *Id*. In its supplemental testimony, Ameren asked the Commission to decide, in light of Ameren's revised cost estimates, whether the Commission considered it advisable for Ameren to proceed with the program in light of the increased estimated cost. *Id*. In addition to the increased cost to implement SVT tariffs, Ameren witness Scott Glaeser argued that market conditions had also changed. *Id*. at 11-14. In particular, he cited the lack of municipal aggregation, which had enabled the electric small volume market, and the increased supply of gas from hydraulic fracturing (or fracking), which decreased price, and, allegedly, reduced volatility. *Id*.

Fracking, however, does not materially affected the viability of retail markets, since the wholesale market remains liquid and very competitive. (Staff Ex. 3.0(R), 3.) It is unclear why a change in price level and volatility eliminates retail profit opportunities. *Id*. Retail profit is the margin between the wholesale price and the retail price. That margin is a function of many variables, including factors such as the cost to transport gas from wholesale markets to the customer. *Id*. A lower wholesale price does not, by itself, change the margin between wholesale and retail prices. Ameren did not provide any concrete evidence that gas retail market participation has been reduced by the shale revolution. *Id*.

Nor is municipal aggregation key to the competitiveness of SVT markets. (Staff Ex. 3.0(R), 4.) Although municipal aggregation is more likely to 'jumpstart' the market, none of the other gas SVT programs in the state rely on it. It is certainly possible to have an active market without municipal aggregation. *Id*.

Staff recommends first that the Commission should not approve any cost recovery in this docket, regardless of its decisions. (Staff Ex. 3.0(R), 4.) The Commission has three options available to it. One, it can simply reaffirm its previous order. The SVT tariff would continue to be litigated in this docket. *Id*. at 4-5. Two, the Commission, if it is concerned that the cost-benefit comparison might be unfavorable given Ameren's revised cost estimates, could request parties provide a record to determine whether SVT remains cost beneficial. *Id*. at 5. Three, the Commission might, if it accepts the revised costs estimates and timelines and believes that SVT is no longer a net benefit to ratepayers, decide to conclude the docket. *Id*.

With respect to the first option, the SVT tariffs as litigated in this docket are fairly close to being complete, so the Commission could quite readily complete the task it set out to do when it ordered Ameren to file SVT tariffs. (Staff Ex. 3.0(R), 5-6.) Total costs to implement the program would then be subject to a prudence investigation in Ameren's next rate case. *Id*. at 6. With respect to the second and third options, to the degree that Ameren's updated cost estimates are accurate, the cost-benefit comparison may now be unfavorable. *Id*. The greater the Commission's uncertainty about this issue, the more reason it has to pause the docket to more rigorously consider the issue. *Id*.

Staff also recommends that the Commission reject the alternative choice program outlined by Mr. Glaeser in his supplemental direct testimony. (Staff Ex. 3.0(R), 6.) Ameren only provides a vague description that differs markedly from the proposed Ameren SVT program. *Id*. Ameren witness Mary Heger also indicates that Ameren has not studied the cost to implement Gas Price Choice ("GPC"). *Id*. The record contains nothing that could justify approving the proposal, so that the Commission has few options in this docket besides rejection. *Id*.

IV. SVT Programmatic Proposals

A. Uncontested Issues

1. Uncontested Tariff Proposals By AIC

2. Definition of Weighted Average Cost of Gas ("WACOG") to be Used in Rider GTA

3. Calculation of Inventory Sales Price

4. Price to Compare ("PTC")

5. Legal Ownership Concerns

B. Contested Issues

1. Display of Price-to-Compare ("PTC") on SVT Customer Bills and Tariff Language Regarding Notification of PTC

CUB advocates a requirement that suppliers include the PGA rate in the bills to their customers. (CUB Ex. 1.0, 8.) While more information generally benefits customers, this requirement does not increase information significantly. (Staff Ex. 2.0, 5.) A more valuable information source for customers is a link to the Commission's Natural Gas Choice web page.[1] *Id*. AGS offers are posted there along with a history of the PGA rates of the utilities offering a small volume transportation program. *Id*. The page also provides plenty of information on how to proceed with purchasing gas from unregulated suppliers. *Id*.

2. Rescission Period for Non-Residential Customers with Annual Usage >5,000 Therms

Both IGS and ICEA-RESA object to Ameren's rescission period for Rider T customers. Although this is not an SVT issue, they propose to eliminate that rescission period in this docket. IGS witness James L. Crist argues that the rescission window will ultimately lead to higher prices, since suppliers take into account the possibility that the customer will rescind in case markets change in the customer's favor, leaving the

[1] The page can found at http://www.icc.illinois.gov/ags/consumereducation.aspx.

marketer with unneeded supplies. (RGS Ex. 1.0, 8.) ICEA-RESA witness Theresa Ringenbach also argues that suppliers could incur large losses if big customers can rescind their contracts while the supplier has locked in gas purchases to service that contract. (ICEA-RESA Ex. 1.0, 6.)

Larger customers are capable of protecting their interests without a rescission window. (Staff Ex. 2.0, 3.) Other gas utilities do not have rescission periods in their large customer transportation tariffs. *Id*. While the PUA requires such windows to protect smaller transportation customers, there is no such requirement for marketers selling to larger customers. *Id*. Thus, Staff recommends that the Commission reject Ameren's proposal to have identical rescission periods for large and small volume customers. *Id*.

3. Nomination Schedules

4. 200% Penalty for Non-Delivery

5. Calculating the Cost for Capacity Release

6. Asset Allocation Periods

IGS argues that suppliers' allocation of transportation capacity released by Ameren to them should be rebalanced when its customer volumes significantly change, e.g., by +/- 10%). (IGS Ex. 1.0, 12.) IGS further posits that this allows the supplier to move its own gas to customers without needing to purchase system supply and without imposing an administrative burden on Ameren to periodically re-configure capacity allocations. *Id*.

IGS is correct that capacity should be periodically re-balanced, since Ameren's tariffs, as currently written, only allow capacity reallocations in November. (Staff Ex. 2.0, 9.) This tariff language seems unnecessarily restrictive, since other gas utilities can provide reallocations more frequently without serious consequences. *Id*. Further, early in the

SVT program, market shares might change relatively rapidly, which could exacerbate any mismatch between original allocations and MDQs over time. *Id*.

7. Combined Billing / Billing Agents Receiving Gas/Electric Information

8. Customer Complaint Tracking and Reporting

CUB argues for an obligation on the utility's part to report to the Commission when "it observes high levels of customer complaints about a particular supplier…or…a pattern of customer complaints from a particular supplier relating to a specific issue." (CUB Ex. 1.0, 8.)

Staff does not oppose this proposal, because customers can benefit when the utility is informing the Commission of problems that customers are experiencing with suppliers. (Staff Ex. 2.0, 6.) Staff welcomes even informal communication that keeps it aware of market conditions. *Id*. Staff is better able to fulfil its responsibilities when it is aware of problems before they reach a level requiring formal Commission action. *Id*. On the other hand, it is not clear that tariffs are required to induce Ameren to convey information about problems in the market to the Commission or its Staff. *Id*.

9. Inclusion of Consumer Protections in Contract Offers

CUB advocates that, rather than embodying certain proposed consumer protections in the tariffs, marketers be required to include language in their contract offers that enumerate these protections to consumers. (CUB Ex. 1.0, 4.) This recommendation should be adopted. (Staff Ex. 2.0, 4.) The supplier is likely the best way to inform customers of these protections. *Id*. If such protections are set forth in the tariff and nowhere else, customers may not know about them, since many customers, especially small customers, are unlikely to read the tariff. *Id*. The supplier has the most direct contact with its customers and is best positioned to inform them of these rights. *Id*.

10. Requirement to File Tariff Allowing Alternative Gas Suppliers ("AGS") to Issue Single Bills

11. Other

V. Conclusion

WHEREFORE, Staff of the Illinois Commerce Commission respectfully requests that its recommendations be adopted in their entirety consistent with the arguments set forth herein.

Respectfully submitted,

_/s/______________________

Matthew L. Harvey
Kelly A. Turner
Illinois Commerce Commission
Office of General Counsel
160 North LaSalle Street, C-800
Chicago, IL 60601
(312) 793-2877
mharvey@icc.illinois.gov
kturner@icc.illinois.gov

January 7, 2015

Counsel for Staff of the Illinois Commerce Commission